



U.S. Department of Justice

United States Attorney  
Southern District of New York

United States District Courthouse  
300 Quarropas Street  
White Plains, New York 10601

July 21, 2010

BY HAND

Honorable Lisa Margaret Smith  
United States Magistrate Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601

Re: **Donald Roth v. United States**  
**09 Civ. 8712, S7 02 Cr. 1503 (SCR) (LMS)**

Dear Judge Smith:

The Government respectfully requests a 60 day adjournment, until September 27, 2010, of the date on which the Government's response to the above-referenced petitioner's petition for habeas corpus is due.

On February 12, 2004, the petitioner was convicted of conspiracy to commit witness tampering and obstruction of justice, and on April 15, 2005, the District Court sentenced the petitioner to five years' imprisonment. On February 22, 2008, the Second Circuit Court of Appeals affirmed the petitioner's conviction by summary order. On June 3, 2008, the District Court denied the petitioner's motion for a new trial, and the petitioner thereafter began serving his prison sentence.

As the Court is aware, following a series of motions and other submissions from the petitioner, within which the petitioner listed 21 claimed grounds for habeas relief, on April 5, 2010, the Court denied the petitioner's motions, and ordered that the petitioner had 45 days from the receipt of the Court's order to file his Memorandum of Law, and that the Government would have 60 days from the filing of the petitioner's Memorandum of Law to respond. On May 28, 2010, the Government received a Memorandum of Law from the Petitioner, in which the petitioner asserts one claimed ground for relief.<sup>1</sup> The petitioner argues, among other things, that the Government acted in bad faith and knowingly elicited perjurious testimony during the

<sup>1</sup> The petitioner's Memorandum of Law was docketed in the above-referenced criminal matter (02 Cr. 1503, docket #229), but not the civil matter (09 Civ. 8712).

petitioner's trial. The Government's response to the Memorandum of Law is due on or before July 27, 2010.

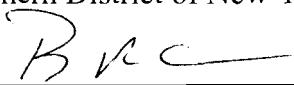
Before receipt of the petitioner's Memorandum of Law, I obtained and began reviewing portions of the record in the case, including transcripts of the two-and-a-half month trial, post-trial proceedings, sentencing, and the appeal. Since the receipt of the petitioner's Memorandum of Law, I have continued to review the voluminous record, and have spoken to individuals concerning their respective knowledge of the subject matter of the petitioner's allegations. However, because of the press of other matters and the volume of the record, I have not yet completed the Government's response and will not be able to do so by July 27, 2010. Thus, I respectfully request a 60 day adjournment, until September 27, 2010, to allow time to complete the Government's response.

Thank you for your consideration.

Respectfully submitted,

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Southern District of New York

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